IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

WP(C).No. 33672 of 2006(H)

PETITIONER:

K.RAYU, S/O.MARAKKAR, AGED 62 YEARS,
KALLAI HOUSE, KALLARMANGALAM P.O.,
KADAMPUZHA VIA, MALAPPURAM DISTRICT.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVT. DEPT. OF LOCAL SELF GOVT.,
GOVT.SECRETARIAT, TRIVANDRUM.

2. THE DISTRICT PANCHAYATH,
MALAPPURAM, REPRESENTED BY ITS SECRETARY,
OFFICE OF THE DISTRICT PANCHAYATH, MALAPPURAM.

3. THE EXECUTIVE ENGINEER,
LOCAL SELF GOVT. DEPT. (PWD), MALAPPURAM.

4. THE ASSISTANT EXECUTIVE ENGINEER,
LOCAL SELF GOVT. DEPT. (WATER RESOURCES),
THANUR BLOCK PANCHAYATH, MALAPPURAM.

BY ADV. SRI.M.K.ABOOBACKER
GOVERNMENT PLEADER SRI.P.K.RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO. 33672/06

APPENDIX

PETITIONER'S EXHIBITS:-

P1: True copy of the agreement dated 9-7-2003 executed between the petitioner and the 2nd respondent Panchayat.
P2: True copy of the report prepared by the 4th respondent.
P3: True copy of the letter dated 26-3-2004.
P4: True copy of the supplementary agreement dated 25-6-2004 executed between the petitioner and the 2nd respondent.
P5: True copy of the letter dated 27-2-2004 written by the Secretary of the 2nd respondent.
P6: True copy of the letter dated 29-5-2004 issued by the Secretary of the 2nd respondent Panchayat.
P7: True copy of the proceedings dated 30-3-2005 of the 2nd respondent.
P8: True copy of the letter dated 10-11-2006 issued by the 2nd respondent.

THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.33672 of 2006-H

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Dated this the 6th day of December, 2007.

JUDGMENT

1.This writ petition is filed seeking directions to pay amounts due under a contract. The work in question was carried out on behalf of the second respondent. The State Government has control over such work. The first respondent State has filed a counter affidavit specifically denying the claims and also taking the stand that it is a case where the petitioner ought to have indemnified the second respondent District Panchayat. In saying so, disputes have been raised by the State regarding the manner in which the work was carried out and also as to whether the petitioner is entitled to the amounts claimed by him. Under such circumstances, it is inappropriate for this Court to enter on an

adjudication on the disputed questions of facts even if reliance is to be placed on ext.P4 supplementary agreement entered into. Hence, without prejudice to the right of the petitioner to seek appropriate remedies before the competent courts, this writ petition is dismissed.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

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